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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/782,118 | 02/19/2004 | Gloria Smith | 23 - 0545 | 5388 |

40158 7590 06/14/2005

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SIOUX FALLS, SD 57105

EXAMINER

EDELL, JOSEPH F

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------|---------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/782,118 | SMITH, GLORIA | |
| | Examiner | Art Unit | |
| | Joseph F. Edell | 3636 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>02/19/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,051,966 to Ness.

Ness discloses a seat cushion assembly that includes all the limitations recited in claims 1-5. Ness shows a seat cushion assembly having a main member (Fig. 1) with upper and lower sections (Fig. 1) pivotable with respect to each other, a pair of spaced lower section panels (Fig. 2) forming the lower section, a pair of spaced upper section panels (Fig. 2) forming the upper section, a topmost one of the pair of lower section panels having a plurality of topmost lower section panel openings 17 (Fig. 4), a lowermost one of the pair of lower section panels having a plurality of lowermost lower section panel openings 17 (Fig. 4), a topmost one of the pair of upper section panels having a plurality of topmost upper section panel openings 17 (Fig. 4), and a lowermost one of the pair of upper section panels having a plurality of lowermost upper section panel openings 17 (Fig. 4) wherein the main member is adapted for positioning the lower section over a base of a vehicle seat and the upper section over a back portion of the vehicle seat.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,804,462 to Kobayashi

Ness discloses a seat cushion assembly that includes all the limitations recited in claims 1-6. Ness shows a seat cushion assembly having a main member (Fig. 1) with upper and lower sections 1,2 (Fig. 1) pivotable with respect to each other, a pair of spaced lower section panels 4,7 (Fig. 1) forming the lower section, a pair of spaced upper section panels 14,17 (Fig. 1) forming the upper section, a topmost one of the pair of lower section panels having a plurality of topmost lower section panel openings (Fig. 1), a lowermost one of the pair of lower section panels having a plurality of lowermost lower section panel openings 8 (Fig. 1), a topmost one of the pair of upper section panels having a plurality of topmost upper section panel openings (Fig. 1), and a lowermost one of the pair of upper section panels having a plurality of lowermost upper section panel openings 18 (Fig. 1) wherein the main member is adapted for positioning the lower section over a base of a vehicle seat and the upper section over a back portion of the vehicle seat, and the plurality of topmost lower section panel openings are arranged to form zones (see Fig. 7) of similarly configured openings defining a lower section medial portion and a lower section perimeter portion.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ness in view of U.S. Patent No. 6,068,332 to Faust et al.

Ness discloses a seat cushion assembly that is basically the same as that recited in claims 6-10 except the topmost section panels of the upper and lower sections lacks zones of similarly configured openings, as recited in the claims. See Figure 1 of Ness for the teaching that the plurality of topmost lower section panel openings have a lower section medial portion and a lower section perimeter portion, and the plurality of topmost upper section panel openings have an upper back portion, a lower back portion, and an upper section perimeter portion. Faust et al. shows a seat cushion assembly similar to that of Ness wherein the seat cushion assembly has a main member (Fig. 1) with upper and lower sections (see column 2, lines 33-36), a topmost section 11 (Fig. 2) of the lower section panel, and a topmost section 11 (Fig. 2) of the upper section panel, and zones 18,11 (Fig. 1) of similarly configured openings defining perimeter portions and sectional portions wherein the openings of the perimeter portions are smaller than the openings of the other sectional portions (see column 3, lines 13-25) and the lower back portion of the upper section panel has smaller openings than the upper back portion of the upper section panel (see column 2, lines 66-67 and column 3, lines 1-7). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the plurality of topmost lower section panel openings are arranged to form zones of similarly configured openings defining a lower section medial portion with larger openings than a lower section perimeter portion, and

the plurality of topmost upper section panel openings are arranged to form zones of similarly configured openings defining a upper back portion with larger openings than the upper section perimeter portion, and the openings defining a lower back portion are smaller than the upper back portion and the upper section perimeter portion, such as the seat cushion assembly disclosed in Faust et al. One would have been motivated to make such a modification in view of the suggestion in Faust et al. that the smaller openings of the lower back portion insures upward air flow along of the upper section and larger openings in the center of the sections increase air flow in those regions.

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ness in view of U.S. Patent No. 4,621,804 to Mueller.

Ness discloses a seat cushion assembly that is basically the same as that recited in claims 11 and 12 except the upper and lower sections are not specified as being detachably coupled, as recited in the claims. See Figure 2 of Ness for the teaching that the lower section panels are sealed together and the upper section panels are sealed together and held in spaced relationship. Mueller shows a cushion assembly similar to that of Ness wherein the section panels 60 (Fig. 2) are detachably coupled to each other by complimentary section snap portions 65,67 (Fig. 5) extending from the section panels. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat cushion assembly of Ness such that each of the lower section panels and the upper section panels are detachably coupled to each other by complimentary section snap portions extending from the respective section panels such that the section panels are held in spaced relationship to each

other when the complimentary snap portions are joined together to couple the section panels together, such as the cushion assembly disclosed in Mueller. One would have been motivated to make such a modification in view of the suggestion in Mueller that the snap portions provide panels that are adjustable and replaceable with respect to another panel.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to seat cushion assemblies:

| | |
|---|------------------------------------|
| U.S. Pat. No. 1,982,516 to Holmsted | U.S. Pat. No. 2,127,710 to Baker |
| U.S. Pat. No. 2,808,596 to Schreiner | U.S. Pat. No. 3,262,739 to Crane |
| U.S. Pat. No. 3,391,413 to Crane et al. | U.S. Pat. No. 3,722,955 to Trotman |
| U.S. Pat. No. 4,143,916 to Trotman et al. | U.S. Pat. No. 5,134,735 to Rose |
| U.S. Pat. No. 5,403,065 to Callerio | |

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

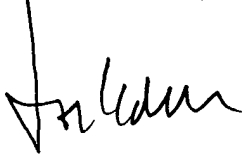
Art Unit: 3636

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Joe Edell", with a vertical line extending upwards from the start of the signature.

Joe Edell

June 12, 2005